

**REMARKS**

This is a full and timely response to the outstanding Final Office Action mailed on August 26, 2004. Reconsideration and allowance of the application and presently pending claims 1 - 16 are respectfully requested.

**A. Examiner-Initiated Interview**

Applicants thank the Examiner for discussing the status of independent claims 1, 8 and 13 on several occasions prior to issuing the present Office Action. Applicants further thank the Examiner for discussing proposed claim amendments during the telephonic interview on August 18, 2004.

**B. Withdrawal of Claim Rejections Under 35 U.S.C. §103**

Applicant thanks the Examiner for acknowledging the Office's withdrawal of the rejection to claims 1 - 16 under 35 U.S.C. §103(a).

**C. Response To Claim Rejections under 35 U.S.C. §101**

Claims 1 - 16 stand rejected under 35 U.S.C. §101 as allegedly being directed to unpatentable subject matter.

Under 35 USC §101, a machine, manufacture, process or composition of matter, which produces a concrete, tangible, and useful result encompasses statutory subject matter eligible for a patent grant.

Applicant's claims, as amended, are directed to a computer, a method, and a computer program stored on a computer-readable medium configured to perform correctness checks opportunistically. Applicant's independent claim 1, as amended, generates "a final schedule of instructions." Applicant's independent claim 8, as amended, creates "a final schedule of instructions." Lastly, Applicant's independent claim 13, as amended, "causes said one or more instructions to be inserted into the additional instruction slots of the final schedule." Thus, each of Applicant's independent claims is directed to a machine (*i.e.*, a computer), a process (*i.e.*, a method for performing correctness checks opportunistically), and an article of manufacture (*i.e.*, a computer program embodied on a computer-readable medium) that produces a tangible and useful result (*i.e.*, a final schedule of instructions). For at

least these reasons Applicant's independent claims 1, 8, and 13 are patentable and the rejection under 35 USC §101 should be withdrawn.

Dependent claims 2 - 7, 9 - 12, and 14 - 16 are believed to be allowable for at least the reason that these claims depend from allowable independent claims 1, 8, and 13, respectively. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

**D. Prior Art Made of Record**

The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

**CONCLUSION**

For at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that pending claims 1 - 16 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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